

## REMARKS

### A. Background

Claims 1, 3, and 5-20 were pending. Claims 1, 3, and 5-20 were rejected in view of cited art. Applicants respectfully request reconsideration in view of the following remarks. Applicants respectfully submit that the amendments to the claims are supported specification and claims as originally filed and no new matter is being added.

The following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any is consistent with the Examiner's understanding.

### B. Rejection Under 35 U.S.C. 102(b)

Claims 1, 3, 5, 8, 11, 12-16 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,957,937 to Yoon (*Yoon*). Applicants respectfully traverse. As indicated in the Office Action, *Yoon* is cited as teaching "a housing 1080; a shaft 1096 . . . extending distally from a distal end of the housing; a needle 156 (fig. 7) movable within the shaft and with respect to the housing. . . and a suture cutting blade 1186 positioned on the housing" (Office Action Page 4).

The structure identified as the "housing 1080" is a needle holder that is disposed at the distal end of the suturing instrument. The "[n]eedle holder 22 includes a pair of cooperating needle holding members, defining a needle holding portion" (Col. 6, ll. 22-23). These needle holding members are illustrated as being "a pair of pivotably opposed jaws" with the jaws being "preferably formed at the distal end of an elongate rod 84" (Col. 6, ll. 29-34. These jaws are closed to retain a needle during use of the suturing instrument.

In contrast, independent claims 1 and 12 recite, respectively and in part, "a shaft *at least partially disposed within a portion of the housing* and extending distally from a distal end of the housing; a needle movable within *a needle lumen associated with the shaft and that extends toward a proximal end of the housing*, the needle being attached to a length of suture" and "an

elongate shaft *at least partially disposed within the housing* and extending distally from the distal end of the housing, the elongate shaft having a distal end region; . . . a needle extending from the needle actuation handle, through the housing and further through *a needle lumen associated with the shaft that extends toward the proximal end of the housing.*" The "shaft", i.e. sleeve, is not "at least partially disposed within" the "housing", i.e., jaws of the device disclosed in *Yoon*. Further, the "shaft", i.e. sleeve, does not include "a needle lumen . . . that extends towards a proximal end of the housing" and within which the needle moves. The needle described in *Yoon* is received within a needle holding portion of the needle holder and is not "movable within *a needle lumen associated with the shaft and that extends toward a proximal end of the housing*".

Consequently, Applicants respectfully submit that *Yoon* does not teach or suggest the invention claimed in independent claims 1 and 12. Since rejected claims 3, 5, 8, 11, 13-16, and 19 depend, respectively, from independent claims 1 and 12, for the same reasons as above, dependent claims 3, 5, 8, 11, 13-16, and 19 are allowable.

C. Rejection Under 35 U.S.C. 103

Claims 6-7, 9-10, 17-18 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoon*, as applied to claims 1 and 12 above, in view of U.S. Patent No. RE 22,857 to Ogburn (*Ogburn*). *Ogburn* discloses a "suturing instrument" (Title). *Ogburn* neither teaches nor suggests "a shaft *at least partially disposed within a portion of the housing* and extending distally from a distal end of the housing; a needle movable within *a needle lumen associated with the shaft and that extends toward a proximal end of the housing*, the needle being attached to a length of suture" as recited in independent claim 1, nor "an elongate shaft *at least partially disposed within the housing* and extending distally from the distal end of the housing, the elongate shaft having a distal end region; . . . a needle extending from the needle actuation handle, through the housing and further through *a needle lumen associated with the shaft that extends toward the proximal end of the housing*" as recited in independent claim 12. As such, *Yoon* and *Ogburn*, whether individually or in combination, fail to teach or suggest the invention claimed in independent claims 1 and 12. Accordingly, Applicants respectfully submit that claims 6-7, 9-10, 17-18 and 20 are allowable because they depend from and therefore include all of the limitations of the allowable independent base claim from which they depend.

D. Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

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Respectfully submitted,

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